

Introduction: Cosmopolitan Politesse, Continued

This issue's forum continues a lively discussion of Nigel Rapport's notion of 'Cosmopolitan Politesse' that was previously featured in these pages in the Summer of 2018. Rapport has long proposed this sort of politesse as a 'form of virtue' and 'good manners' (2018: 93) premised on 'the ontological reality of human individuality', which in turn necessitates an 'interactional code' according to which we must presume both 'common humanity' but also 'distinct individuality' to the point where we 'classif[y] the Other in no more substantive fashion than this' (2018: 92). Given anthropology's history of intricately taxonomizing humans according to various criteria, this is indeed a challenging proposal—all the more so in the context of legal anthropology, where being subject to specific norms and laws is often taken to be constitutive of distinctive subjectivities, sensibilities, and survival strategies. In this issue, Don Gardner responds, directing his critical attention towards the notion of personhood undergirding Rapport's plea for a revitalized Kantian liberalism in an era of resurgent xenophobia and ethnonationalism. In the process, we see two accomplished scholars taking positions within (and consciously outside of) a whole range of classical debates in the Western philosophical cannon with pressing relevance for contemporary legal anthropology, from nature vs. nurture to free will vs. determinism, individualism vs. collectivism and structure vs. agency.

Gardner's fear is that Rapport's proposal, despite its aspirations to universalism, effectively imposes a set of provincial (indeed quite predictable) social mores and categories onto the human condition writ large, like public and private, individual and collective, nature and culture. Gardner argues (and Rapport seems unbothered by the assertion) that most of these are entailed by Rapport's call for 'an absolute distinction between symbolical reality and an ontological one' (2018: 93). In contrast to Rapport, Gardner emphasizes how human communities and their rules can effectively create their own realities, arguing that we should be more worried about 'integrating, rather than opposing, cause and meaning in analysis' (this issue). Gardner notes that humans have, after all, evolved to be 'obligate cooperators'—often in ways that we ourselves do not even fully comprehend. Taking inspiration from recent post-genecentric approaches to human evolution, he argues that, 'If we forget the processes that produce a self (and which the self cannot produce), we miss its defining features' (this issue). This means moving beyond notions of nature vs. nurture, free will vs. determinism, the individual vs. the collective and the like.

Rapport's response is structured in large part around his defense of the ontological reality of human freedom in even the most dire of circumstances, taking the legacy of the holocaust as an exemplar of how humans are always and everywhere 'condemned to be free' (as Sartre would have it). Here, he frames his remarks around the ethically fraught choices of Chaim Rumkowski, a Jewish businessman who attempted to save his community from destruction by integrating them so seamlessly within the Nazi war machine that they would become indispensable to it. The point is not that they were largely saved—in fact most perished in the death camps along with so many millions of other human beings. Yet even in his impotence in the face of the integrated hierarchy of a totalitarian state, Rapport's anti-hero Rumkowski made his choices and was surely condemned to be haunted by them as long as he lived. The

import of this for Rapport is that speaking of social, historical, and political-economic causality in such a context is to risk a slide into determinism that would neglect the vibrancy of individual lifeworlds in even the bleakest of contexts.

Whether one is swayed by Rapport or Gardner (or, as Gardner suggests, one sees this as another avatar of the classical anthropological debate between the symbolists and the materialists), this exchange points to some of the key controversies that continue to haunt legal anthropology as a project. How do our notions of law, decorum and rule-following remain imbricated with our unacknowledged and culturally-constituted theoretical and methodological priors? Is there any way to ground a certain modicum of respect for the dignity of others on less parochial grounds than those currently available? And how might legal anthropology contribute to (or hamper) such a project? One suspects that this will not be the end of these debates by any means—and this is as it should be. The “Forum” feature of *The Journal of Legal Anthropology* is intended to precipitate further debate and reflection—not analytic closure. In staking out their respective positions, we hope that these scholars will sharpen everyone’s thinking on these vital issues.

References

Rapport, N. (2018), ‘Cosmopolitan Politesse’, in *The Journal of Legal Anthropology* 2(1):92-99.